

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF TENNESSEE**  
**NORTHERN DIVISION AT KNOXVILLE**

BRENT BARNETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Case No.: 3:21-cv-00251
	)	
EAGLE DISTRIBUTING CO., INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF'S MOTION FOR ORDER OF VOLUNTARY DISMISSAL WITHOUT**  
**PREJUDICE PURSUANT TO FED. R. CIV. P. RULE 41(B)**

Comes the Plaintiff, BRENT BARNETT, by and through counsel, and would hereby move this Court for an Order of voluntary dismissal without prejudice.

Given the Defendant's objections to Plaintiff's Rule 41(a) Notice of Voluntary Dismissal, Plaintiff hereby withdraws his Rule 41(a) Notice of Voluntary Dismissal and simultaneously files a Motion for an Order of Voluntary Dismissal Without Prejudice as to all claims contained within the Complaint.

The Court should dismiss this case without prejudice as very little work has been done on this file by the Defendant, except for its motion to dismiss and its objections to Plaintiff's Rule 41(a) Notice of Voluntary Dismissal. Indeed, no discovery of any kind has yet occurred in this case. Therefore, a dismissal without prejudice will not cause any substantial or undue burden on the Defendant.

In the alternative, and only to the extent this Court would entertain a dismissal with prejudice, the Plaintiff would request the Court only dismiss the Federal claims with prejudice while dismissing the State law claims without prejudice. See Fed. R. Civ. P. 41(b).

Respectfully submitted this 17th day of December, 2021.

/s/ Darren V. Berg  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing document has been served upon all parties of record through this Court's electronic docketing system: CM/ECF.

This, the 17<sup>th</sup> day of December 2021.

/s/ Darren V. Berg  
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